

EXHIBIT I

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIGUEL ORTEGA, BENJAMIN ORTEGA,
a minor, by and through his Guardian
Ad Litem, ANA ROSA ORTEGA,
Plaintiffs,

-vs-

CASE NO. C07-02659 JCS

CITY OF OAKLAND, OAKLAND POLICE
DEPARTMENT, WAYNE TUCKER, in his
capacity as the Police Chief of the
City of Oakland, RAMON J. ALCANTAR,
individually and in his capacity
as a Police Officer for the City
of Oakland, BERNARD ORTIZ,
individually and in his capacity
as a Police Officer for the City of
Oakland, DOES 1 through 200,

Defendants.

DEPOSITION OF OFFICER RAMON ALCANTAR
JANUARY 16, 2008

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BY CHERYL L. CHAUDOIR, CSR NO. 9501

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A P P E A R A N C E S:

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For: Officer Alcantar

Also present: Miguel Ortega, Benjamin Ortega,
Ana Rosa Ortega

--oOo--

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Examination by:

MR. JACOBSEN

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1 BE IT REMEMBERED, that pursuant to Notice of
2 Taking Deposition, and on Wednesday, January 16, 2008,
3 commencing at the hour of 10:30 a.m., at the LAW OFFICES
4 OF STEVEN R. JACOBSEN, 901 Clay Street, Oakland,
5 California, before me, Cheryl L. Chaudoir, a duly
6 qualified Certified Shorthand Reporter, License No. 9501
7 in and for the State of California, there personally
8 appeared

9 OFFICER RAMON ALCANTAR,
10 called as a witness by the Plaintiffs, who, being first
11 duly sworn by me to tell the truth under penalty of
12 perjury under the laws of the State of California, was
13 thereupon examined and testified as is hereinafter set
14 forth.

15 --oOo--

16 EXAMINATION BY

17 MR. JACOBSEN: Q. Will you state your full
18 name for the record, please?

19 A. Ramon Alcantar.

20 Q. And you're an officer with the Oakland Police
21 Department?

22 A. Yes.

23 Q. What's your rank?

24 A. Police officer.

25 Q. On May 7th, 2006, what was your rank?

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1 walked to the sidewalk.

2 Q. Where had he come from?

3 A. When we observed him -- or I can only say for
4 myself, when I observed him he was standing in the
5 middle of the street.

6 Q. So you don't know if when he walked to the
7 sidewalk he completed crossing the street or if he
8 returned to a place from which he had come?

9 A. Correct, I do not know.

10 Q. Was your car moving at the time you observed
11 him?

12 A. It was.

13 Q. Did you have to stop?

14 A. Yes.

15 Q. How long did you remain stopped?

16 A. Not very long. A few seconds.

17 Q. Was there any exchange of words or anything
18 between either of you in the car and Benjamin?

19 A. As we passed him, yes.

20 Q. What was the exchange?

21 A. We told him, "Stay out of the street."

22 Q. Who told him?

23 A. I believe I did.

24 Q. And so you spoke to him through the passenger
25 window?

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1 A. Yes.

2 Q. What was the weather like that day?

3 A. I don't recall.

4 Q. Were your windows down?

5 A. Yes.

6 Q. What were the exact words you used?

7 A. "Get out of the street."

8 Q. Okay. And at that point, was he out of the
9 street?

10 A. Yes.

11 Q. And did you see him do anything else after
12 that?

13 A. We just kept driving.

14 Q. Okay. Did you see anyone else that was
15 involved in the incident other than Benjamin at
16 that time?

17 A. At that specific location?

18 Q. Yes.

19 A. There was just a large group so, no, just
20 concentrating on Benjamin waving the flag.

21 Q. How many seconds did you see him stopped in the
22 street?

23 A. I don't know. Approximately five to ten
24 seconds.

25 Q. Where did you go from there?

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1 A. That time, no.

2 Q. Okay. Was there any traffic that was being
3 held up that time?

4 A. There was a lot of traffic. It just slowed.
5 It slowed down from when I saw him, and then he got out
6 of the street, and then it picked back up.

7 Q. Didn't actually stop?

8 A. That I recall, no, it didn't stop. It just
9 slowed down.

10 Q. Okay. Was that the last time you saw either
11 Benjamin or Miguel Ortega that night?

12 A. No.

13 Q. How long between that contact and the next time
14 that you saw either Benjamin or Miguel Ortega?

15 A. I don't recall.

16 Q. Can you give me an estimate?

17 A. No.

18 Q. Describe for me the circumstances under which
19 you came into contact with them the next time.

20 A. The third time we came up to them and realized
21 there was going to be a problem. We drove by the
22 corner, told them to get off -- I think we told them to
23 get off the corner or get out of the street. It was the
24 third time. Again, Benjamin was in the middle of the
25 street waving the flag, so Bernard parked our vehicle on

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1 the southeast corner parking lot.

2 Q. When you came upon Benjamin the third time,
3 where was he?

4 A. He was in the middle of the street waving a
5 flag.

6 Q. In the eastbound lanes or the westbound lanes
7 or between them?

8 A. Eastbound lanes.

9 Q. How long did you observe him waving the flag in
10 the eastbound lanes?

11 A. Again, seconds, because you could see him from
12 a distance because you could see the flag.

13 Q. Do you remember now what kind of flag it was?

14 A. No.

15 Q. Okay. So he was waving a flag for seconds.
16 Was he holding up any traffic this third time?

17 A. Yes.

18 Q. How many cars?

19 A. I don't recall.

20 Q. Was it more than one?

21 A. Yes.

22 Q. Can you give me your best estimate?

23 A. No.

24 Q. Did you have to stop as a result of any traffic
25 being held up?

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1 because it's likely to continue. This is the reason why
2 we're out here. We got to stop the problem."

3 Q. Okay.

4 A. So, meanwhile, that's when they started yelling
5 and actually started walking off, and we parked.

6 Q. Okay. So this group of people started walking
7 off?

8 A. Correct.

9 Q. How big of a group was it?

10 A. Fifteen, 20 people.

11 Q. Can you describe the group for me?

12 A. No. I don't recall.

13 Q. Were they all blonde, Swedish women?

14 A. I'm pretty sure they were not.

15 Q. How would you characterize the group?

16 A. If I don't recall, I don't have to make
17 something up, so...

18 Q. So you don't recall anything about the group?

19 A. No. Just a large group.

20 Q. Did you count them?

21 A. No. Estimate.

22 Q. Okay. Were they all male?

23 A. I don't recall.

24 Q. Were they all Hispanic?

25 A. I don't recall.

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1 A. Eastbound.

2 Q. And the group was on the south corner?

3 A. Southwest corner.

4 Q. Southwest corner?

5 A. Correct.

6 Q. Okay. So the group didn't really have a good
7 view of Officer Ortiz at that point, right?

8 MR. VOSE: I'm going to object. I think it
9 calls for speculation on his part.

10 MR. VERBER: Join.

11 THE DEPONENT: You want me to answer it?

12 MR. VERBER: You can answer, if you can.

13 MR. VOSE: If you can.

14 THE DEPONENT: Well, I can determine if
15 someone is thin, medium or heavy set sitting in a
16 driver's seat. So if you want me to give my opinion --
17 or their opinion, yes.

18 Q. (By Mr. Jacobsen) Okay. Once you parked the
19 car and got out, what happened next?

20 A. I started walking over toward -- they began
21 walking westbound -- I'm sorry. They began walking
22 southbound on the west sidewalk. I started walking
23 directly towards Benjamin and told him to come here.

24 Q. Do you know whether or not Benjamin heard you?

25 A. He was looking right at me. You can say yes.

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1 Q. On the sidewalk or in the yard?

2 A. Half the group was in the yard -- only a few
3 went in the yard -- well, before I got there, only
4 Benjamin went in the yard.

5 Q. And then you crossed the street?

6 A. I told Benjamin to come here again, and that's
7 when he started running.

8 Q. Where was he when he started running?

9 A. On the west sidewalk.

10 Q. How far was he from the yard where he entered?

11 A. Forty feet.

12 Q. Okay. And he started running to the yard?

13 A. Yes.

14 Q. Okay. Did he hear you the second time you said
15 "Come here"?

16 MR. VERBER: Objection. Calls for
17 speculation.

18 You can answer.

19 THE DEPONENT: Yes. I was looking right at
20 him, and I directed -- I was walking right to him, and
21 by that time I was in the middle of the street.

22 Q. (By Mr. Jacobsen) Was there still yelling
23 going on at that point?

24 A. I don't recall.

25 Q. Do you know whether or not Benjamin knew you

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1 were referring to him?

2 A. By the situation, by our positioning, me
3 looking right at him, pointing at him telling him to
4 come here, and then the only person was he that I saw
5 running, he knew I was talking directly to him.

6 Q. And he ran into the yard?

7 A. Yes.

8 Q. Is this a fenced yard?

9 A. Yes.

10 Q. What kind of fence?

11 A. I don't recall.

12 Q. How high was the fence?

13 A. Three feet. Estimating three feet; three, four
14 feet.

15 Q. It's a low fence, then?

16 A. It's a low fence, yes.

17 Q. Okay. Is there a gate on the fence?

18 A. I believe. I don't recall.

19 Q. So you crossed the street. Did you encounter
20 any of the other people who had been in the group?

21 A. There was already a group at that address, and
22 another group, I guess you could say.

23 Q. So the group that had been on the corner joined
24 the group that was already at the address?

25 A. Right, but I got there before that first group

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1 who were on the corner.

2 Q. What did you do when you arrived on the west
3 sidewalk of the street?

4 A. I followed Benjamin into his yard -- into that
5 yard, specific yard.

6 Q. Did you stop before entering the yard?

7 A. No.

8 Q. Did you have an understanding at that time that
9 the yard was private property?

10 A. Yes.

11 Q. What was your basis for entering private
12 property at that point?

13 A. Benjamin was under arrest.

14 Q. This was hot pursuit?

15 A. I guess you could say -- I guess you could say
16 hot pursuit.

17 Q. Had you informed Benjamin prior to entering the
18 yard that he was under arrest?

19 A. No.

20 Q. Where was Officer Ortiz at this point?

21 A. Specifically I don't know because I was going
22 forward. And he was behind me. So he wasn't in front
23 of me, he was behind me somewhere.

24 Q. Okay. So you entered the yard. What did you
25 do next?

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1 A. Attempted to grab Benjamin, and then he -- what
2 I call a juke move, like in football. I side stepped,
3 and as he side stepped, I grabbed him and we both went
4 down to the ground.

5 Q. You grabbed him with your right hand?

6 A. I don't remember which arm, I just remember he
7 side stepped. I don't remember which direction. As he
8 side stepped, I grabbed his shirt, arm; I don't know. I
9 grabbed some part of him.

10 Q. And he went down to the ground?

11 A. Correct.

12 Q. What did you land on?

13 A. I think it's dirt; partially grass, mainly
14 dirt.

15 Q. What part of your body hit the ground?

16 A. My knees, my stomach.

17 Q. Okay. And Benjamin went down to the ground,
18 too?

19 A. Yes.

20 Q. And were you side by side?

21 A. Yes.

22 Q. What did you do next?

23 A. I jumped on his back.

24 Q. So he was face down?

25 A. He was face down.

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1 closer down to his legs, yes.

2 Q. Did you ever touch his neck?

3 A. I might have as I was holding him down. How I
4 do it is when I have someone on the ground, I push one
5 hand on top of their back so they don't raise up. So
6 it's on the upper back, could have been close to his
7 neck.

8 Q. Did you ever put any part of your hands around
9 the side or the front of his neck?

10 A. Not the front of his neck. He was face down --
11 well, he was turned to the side, so could have been on
12 his neck.

13 Q. How long did you have your hands up in the area
14 of his neck?

15 A. It only takes me -- gosh, what? -- a second and
16 a half to take my handcuffs out, then I came off and
17 then I used two hands to handcuff. So two seconds, at
18 the most.

19 Q. Did you apply any pressure to Benjamin's neck
20 during that time?

21 A. My weight was on it.

22 Q. Other than your weight?

23 A. No.

24 Q. Did you ever squeeze his neck with your fingers?

25 A. No.

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1 A. They all went inside the residence within the
2 gate with their alcohol, they picked up the alcohol
3 bottles that were just laying on the sidewalk, and they
4 began moving their vehicles that were illegally parked.

5 Q. So they complied with your request?

6 A. Yes.

7 Q. Did you ever see any indication that either
8 Miguel or Benjamin Ortega had been drinking?

9 A. No.

10 Q. All right. And what did you do next?

11 A. Then I went back to the patrol car and spoke
12 with Benjamin.

13 Q. By this time Miguel was also in the car?

14 A. Yes.

15 Q. So you spoke with both of them?

16 A. Yes.

17 Q. Was anyone else in the patrol car at that time?

18 A. I don't recall.

19 Q. Okay. So, as far as you remember, it was
20 just -- you were the only officer speaking with both
21 Miguel and Benjamin Ortega?

22 A. There was at least ten officers, maybe even 12
23 officers around -- I could say there was even more right
24 by the vehicle, so whether I was the only one that spoke
25 to them, I don't know because I was talking to the group

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1 conversation. I don't know who it was.

2 Q. Did you ever mention immigration during the
3 course of your conversation?

4 A. I did not. Gangs was there, and they were with
5 ICE, they were with immigration. I believe I heard
6 immigration, "Do we need immigration?" Something to
7 that fact. I did hear immigration, but that's because
8 immigration was right there with us.

9 Q. I'm asking did you mention immigration?

10 A. Oh, no.

11 Q. Did you mention or question anyone's
12 immigration status?

13 A. I don't recall.

14 Q. At some point, did you have a conversation with
15 anyone else from the group?

16 A. A conversation?

17 Q. Yes.

18 A. Yes.

19 Q. And what was the conversation?

20 A. They wanted my name, my badge number, and every
21 other officer's name and badge number.

22 Q. And do you know who the person was that was
23 asking you this?

24 A. No.

25 Q. Do you have a name or address of that person?

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1 A. We were at our -- within our -- yeah, just
2 walked right back to our vehicle.

3 Q. So you opened the doors, let them out,
4 unhandcuffed them, and they left?

5 A. Yes, they left back to that address.

6 Q. And you got back in the car?

7 A. Correct.

8 Q. So that was the car, your vehicle, that they
9 had been detained in?

10 A. I can't say specifically. Walked back to our
11 vehicle that we had driven there in.

12 Q. And you don't know if that was your vehicle
13 that they had been detained in or not?

14 A. Correct. When several officers respond to a
15 scene, and when you place someone in a vehicle, a lot of
16 times it doesn't matter -- if they were just being
17 detained or arrested at that time, doesn't matter what
18 vehicle they are in.

19 Q. Okay. And you placed it in the visor of the
20 vehicle that you had been patrolling in that day?

21 A. Yes.

22 Q. The report, that is?

23 A. Yes.

24 Q. And what happened to the report after that?

25 A. That's what we can't determine. I guess the

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1 department said they could not find the FC, and having
2 dealt with FCs and a lot of the paperwork -- as a police
3 officer, you have a lot of paperwork. A lot of times it
4 gets turned in several days later, gets left in the
5 visor. We are not the only people who use that vehicle,
6 so it's unknown what happened to that report.

7 Q. Were you disciplined for failure to turn in a
8 report?

9 A. No.

10 Q. Was there an investigation done as a result of
11 your failure to turn in a report?

12 A. Yes.

13 Q. What was the result of that?

14 A. No discipline.

15 Q. Was there a finding made?

16 A. I have been off for a year, so I don't know. I
17 believe the case was closed. And I have not been told I
18 was disciplined or anything, so I actually do not know.

19 Q. Did you ever notify a supervisor of the use of
20 force in this incident?

21 A. Not that I recall because, in my opinion, there
22 was no use of force.

23 Q. Isn't handcuffing someone and taking them to a
24 patrol car a use of force?

25 A. No. It's a procedure.

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1 Q. Did you see any signs of physical injury?

2 A. No.

3 Q. Did you examine his neck?

4 A. I don't recall.

5 Q. Did anyone of the group of people that had been
6 on the corner, including the two Ortega brothers, ever
7 threaten any police officer, to your knowledge?

8 A. Not that I recall.

9 Q. Did the patrol vehicle that you were driving in
10 that day have a video camera?

11 A. No.

12 Q. Did any of the vehicles that responded to the
13 scene that day have a video camera?

14 A. No.

15 Q. Did you ever call a supervisor to the scene of
16 the incident?

17 A. No.

18 Q. Why not?

19 A. There was no reason to.

20 Q. Was there a regulation that required you to do
21 that?

22 A. On certain situations. Not on this one.

23 Q. Under what situations do the regulations
24 require you to call a supervisor to the scene? And,
25 again, I'm talking about regulations in effect on May

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D E C L A R A T I O N

I, OFFICER RAMON ALCANTAR, do hereby declare under penalty of perjury that I have read the foregoing transcript of my deposition; that I have made such corrections as noted herein, in ink, initialed by me, or attached hereto; that my testimony as contained herein as corrected is true and correct.

EXECUTED this ____ day of _____,
20__, at _____,
(City) (State)

OFFICER RAMON ALCANTAR

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January 29, 2008

COPY

Ramon Alcantar
c/o John J. Verber, Esquire
BURNHAM BROWN
1901 Harrison Street, 11th Floor
Oakland, CA 94612

Dear Deponent,
Pursuant to the California Code of Civil Procedure,
please be advised that the original transcript of your
deposition taken on January 16, 2008, is ready for your
review and corrections, if necessary. The original will
be held in our office for a period of 35 days, at which
time it will be forwarded to the noticing attorney.

If your attorney has ordered a copy, please review the
transcript. Reading, correcting and signing of
depositions is an option and is not mandatory. If
changes are necessary, please do so on the correction
sheet provided.

If your attorney has not ordered a copy of the
transcript, you may call to make an appointment to review
the original in our office.

Thank you,

Clark Reporting & Videoconferencing

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R E P O R T E R ' S C E R T I F I C A T E

I, the undersigned, duly qualified Certified
Shorthand Reporter in and for the State of California,
do hereby certify:


That the witness in the foregoing deposition
named, was present at the time and place therein
specified;

That the said proceeding was taken before me as
a Certified Shorthand Reporter at the said time and
place and was taken down in shorthand writing by me;

That I am a Certified Shorthand Reporter of the
State of California, that the said proceeding was
thereafter transcribed by means of computer-aided
transcription, and that the foregoing transcript
constitutes a full, true and correct report of the
proceedings which then took place;

That I am a disinterested person to the said
action.

IN WITNESS WHEREOF, I have hereunto set my hand
this 28th day of January, 2008.


CHERYL CHAUDOIR, CSR #9501

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